

CRR 274 of 2012
CRAN 1 of 2012

In the matter of : The State of West Bengal

Mr. S.G. Mukherjee, Ld. P.P.
Mr. Madhusudan Sur
Mr. Imran Ali for the petitioner

None appears on behalf of the opposite party, despite service.

This revisional application challenges the order dated 17.1.2011 passed by the learned Chief Judicial Magistrate, Burdwan in G.R. No. 2141 of 2010 arising out of Raina P.S. Case No. 154/10 dated 06.12.2010 under Sections 302/34 of the Indian Penal Code. By the impugned judgement, learned Chief Judicial Magistrate, Burdwan after considering the report filed by Additional Superintendent of Police (Headquarters) Burdwan, on 06.12.2010 was pleased to entrust C.I.D. with the investigation of Raina P.S. Case No. 154/10 dated 06.12.2010 on the ground that the Officer-in-Charge, Raina P.S. had participatory role in the alleged incident of offence resulting into death of a person.

Mr. Mukherjee, learned Public Prosecutor representing the State submits that learned Chief Judicial Magistrate exceeded his jurisdiction by passing the impugned order. Section 156(3) of Cr.P.C. limits the authority of learned Chief Judicial Magistrate to direct the officer-in-charge of concerned police station to undertake investigation and in exercising such jurisdiction learned Chief

Judicial Magistrate cannot direct any officer superior in rank or any agency other than jurisdictional police station. According to Mr. Mukherjee the impugned order suffers from infirmity and in support of his contention Mr. Mukherjee, relies upon the judgement of hon'ble Apex Court pronounced in the case of ***Central Bureau of Investigation vs. State of Rajasthan and Another*** reported in ***(2001) 3 SCC 333***.

In Paragraph 16 the Apex Court held that :-

“16. As the present discussion is restricted to the question whether a magistrate can direct the CBI to conduct investigation in exercise of his powers under Section 156(3) of the Code it is unnecessary for us to travel beyond the scope of that issue. We, therefore, reiterate that the magisterial power cannot be stretched under the said sub-section beyond directing the officer in charge of a police station to conduct the investigation.”

Thus there is no room to hesitate that the learned Chief Judicial Magistrate, Burdwan failed to exercise the jurisdiction vested upon the Court under Section 156(3) of the Cr.P.C., therefore, this order dated 17.01.2011 warrants interference and it stands quashed.

Mr. Mukherjee, though submits that sanction has not been obtained to prosecute the police officers on duty, I am not inclined to make any comment at this stage on that issue. Liberty is given to the State to agitate the point before the learned Trial Court who will decide the issue of sanction on merit.

With this observation, the criminal revision is disposed of.

Copy of the order be sent to the learned Trial Court for information and necessary action.

(Siddhartha Roy Chowdhury, J.)